

Docket No.: TEKIA.002A

March 15, 2006

Page 1 of 2

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**TRANSMITTAL LETTER  
APPEAL BRIEF**

Applicant : Larry W. Blake  
App. No : 09/631,576  
Filed : August 4, 2000  
For : TWO PART "L" SHAPED PHAKIC IOL  
Examiner : Javier Blanco  
Art Unit : 3738

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

March 15, 2006

(Date)

James B. Bear, Reg. No. 25,221

**Mail Stop Appeal Brief - Patents**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing in the above-identified application are the following enclosures:

(X) Appeal Brief in 24 pages.

**FILING FEES:**

The present application qualifies for Small Entity Status under 37 CFR 1.27.

FEE CALCULATION				
FEE TYPE		FEE CODE	CALCULATION	TOTAL
Appeal Brief	41.20(b)(2)	2402 (\$250)		\$250 (Previously paid on May 26, 2005)
			<b>TOTAL FEE DUE</b>	<b>\$0</b>

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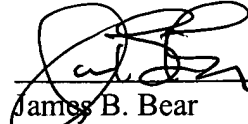
Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

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**Customer No.: 20,995**

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Dated: March 15, 2006



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PAT-ABRIEFTRANS

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Docket No.: TEKIA.002A

March 15, 2006

Page 1 of 24

Please Direct All Correspondence to Customer Number **20995**

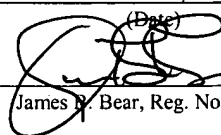
**APPEAL BRIEF RESUBMITTED TO COMPLY 37 C.F.R. 41.37**

Applicant : Larry W. Blake  
App. No : 09/631,576  
Filed : August 4, 2000  
For : TWO PART "L"-SHAPED PHAKIC  
IOL  
Examiner : Javier Blanco  
Art Unit : 3738

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March 15, 2006

(Date)  
  
James D. Bear, Reg. No. 25,221

**Mail Stop Appeal Brief-Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the Notice of Non-Compliant Appeal Brief mailed February 14, 2006, Applicant resubmits this Appeal Brief.

**TABLE OF CONTENTS**

Real Party in Interest.....	2
Related Appeals and Interferences.....	2
Status of Claims .....	2
Status of Amendments .....	3
Summary of Claimed Subject Matter.....	3
Grounds of Rejection to be Reviewed on Appeal.....	8
Argument .....	9
Claims Appendix .....	16
Evidence Appendix.....	20
Related Proceedings Appendix .....	24

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

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**Customer No.: 20,995**

### **I. REAL PARTY IN INTEREST**

Pursuant to 37 C.F.R. 41.37(c)(1), Applicants hereby notify the Board of Patent Appeals and Interferences that the assignee of this application, TEKIA, Inc, 17 Hammond, Suite 414, Irvine, CA 92618, is the real party of interest.

### **II. RELATED APPEALS AND INTERFERENCES**

Appellants are unaware of any related appeals or interferences.

### **III. STATUS OF CLAIMS**

The above-captioned application was filed on August 4, 2000 with Claims 1-45. As a result of a Restriction Requirement, Claims 1-39 and 40-45 were cancelled and Claims 46-76 were added. During the course of prosecution (In a response to the OA of October 11, 2002), Claims 41, 46-47, 73 and 76 were cancelled and Claims 40, 48-51, 55-56, 66, 69, 74-75 were amended. Claims 77-79 were added.

When an RCE was filed in response to April 9, 2003, Claims 40, 52, 74, 77-79 were amended.

In a response to the OA of November 9, 2003 Claims 80-81 were added and Claims 77-81 were amended.

In a response to a final OA of May 4, 2004, a telephonic interview was conducted on June 25, 2004, a result of which was that Claims 40, and 77-79 were amended.

In response to a second final OA of September 20, 2004, only dependent Claim 55 was amended.

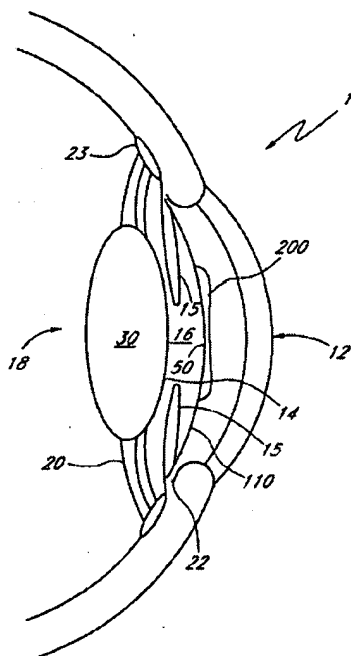
In an OA received on February 22, 2005, Claims 54, 55, 62-66, 70-72 were objected to but believed patentable should they be amended to include the limitations of the claims from which they depend and any intervening claims. Accordingly, Claims 40, 51-72, 74-75, and 77-81 are the subject of this appeal. The claims are attached hereto as Appendix A.

#### IV. STATUS OF AMENDMENTS

Claims 40, 51-72, 74-75, and 77-81 appear as they were twice rejected. As noted above, all pending claims are attached hereto as Appendix A.

#### V. SUMMARY OF CLAIMED SUBJECT MATTER

Intraocular lenses (IOLs) can be used to treat a wide variety of eye conditions, including cataracts. The IOL can replace a damaged lens or can be used in addition to the natural lens to correct vision. Figure 1 of this application, shown below, shows a cross section of an eye, in which reference number 12 is the pupil. During the treatment of cataracts, the damaged natural lens (reference 30) is usually removed. Then the IOL is placed into the eye in the anterior or posterior chamber (see reference numbers 16 and 18 in the figure).



A typical IOL is composed of an optic (the lens) and a haptic (the framework which holds the lens in place within the eye). In the prior art, the optic was typically about 6 to 7 mm in diameter, and the haptics were formed as thin springy threads. This assembly could be rolled

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

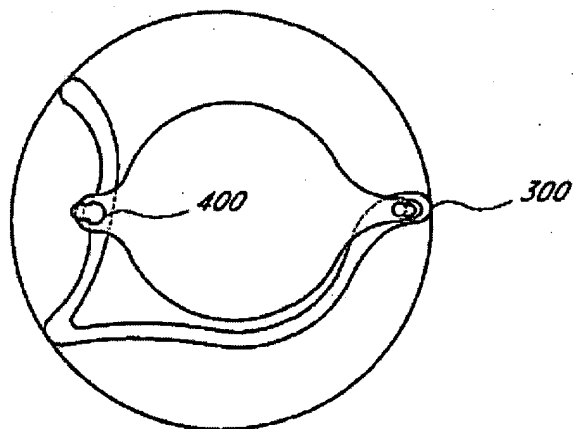
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**Customer No.: 20,995**

into an injector, and forced through a 3 mm opening into the anterior or posterior chambers. A small incision is now possible because of phakoemulsification. Phakoemulsification of the diseased natural lens is accomplished by making about a 2 to 4 mm (small) incision in the eye and a second incision in the capsule that encloses the lens in the posterior chamber. After removal of the diseased lens, an artificial intraocular lens implant is implanted back through the incision in the capsule into the capsular bag (a thin sac surrounding the lens 30). For other types of procedures, the natural lens may not require removal at all. It was recently recognized that when a small incision (2.5mm or smaller) was used, the healing time for the surgery was greatly reduced. The small incision also eliminated the need for a suture to close the incision. Thus, there is a strong general trend toward reducing the size of the incision.

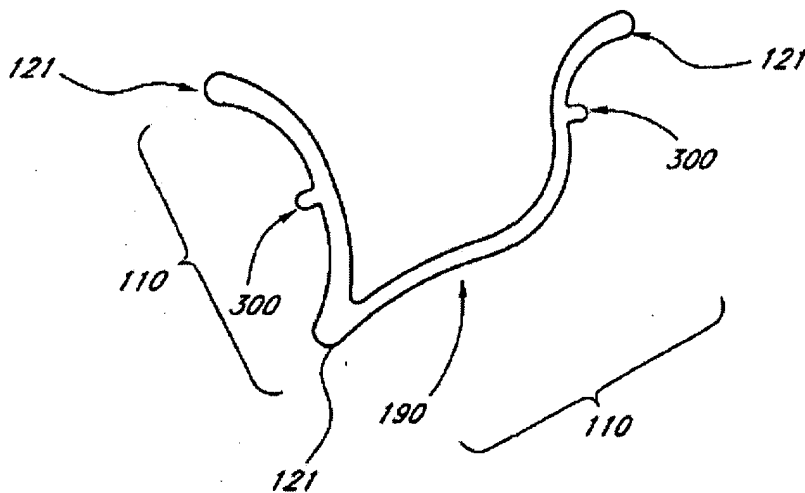
The claimed invention relates generally to an advantageous attachment for a two-part intraocular lens (IOL) 10 for placement within the eye 1, the two parts being: an optic 200 and a separate haptic 110. The claimed invention advantageously provides a way to insert the IOL through an incision as small as 1 mm by inserting each part separately. Since the lens itself is made of soft, transparent material, it can be rolled up tightly and injected through the incision. Once inside the eye, it will resiliently expand to its original size. The haptic, however, must be rigid enough to support the optic, and is thus formed in a shape which can be threaded through a 1 mm opening. Once the two parts are inserted in the eye it is necessary to attach them. Because the cornea (see number 12 in the figure of the eye) is transparent, the surgeon can see through the cornea (12) to manipulate the two elements, using the 1 mm incision for his tools. This is clearly a very difficult feat since there is very little room to manipulate the IOL and any wrong move can result in damage to the eye. The attachment of the present invention is particularly advantageous because it allows the surgeon to attach the optic to the haptic within the eye relatively easily and with minimal damage to the eye.

### Two Part IOL



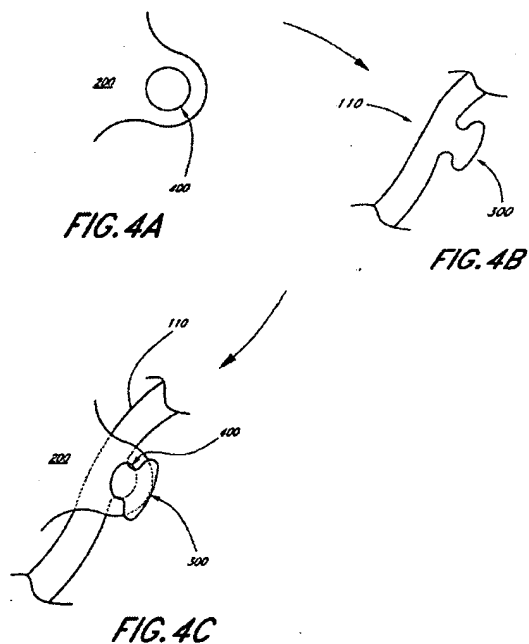
### Haptic and Optic

One embodiment of the attachment is shown in Figure 2B of the application, reproduced above. The circle in the drawing is the lens capsule within the eye. The attachment for the two-part IOL includes at least two eyelets 400 on one part (the optic in this case) which may be attached to two cleats 300 on the other part (the haptic in this case). The haptic with two cleats 300 is shown in Fig. 3, reproduced below. This allows the surgeon to snap each of the eyelets 400 over a cleat 300 to firmly attach the optic 200 to the haptic 110. (see above and in Figures 4A-4C following).



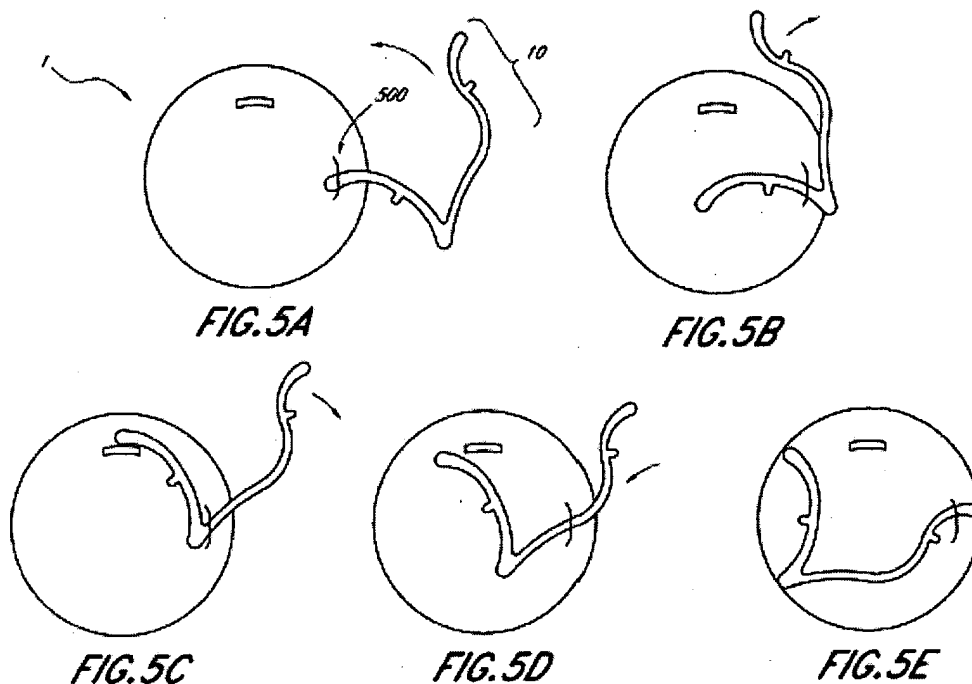
### Haptic

Figure 4A below is an eyelet and Figure 4B is a cleat, Figure 4C shows the cleat and eyelet attached.

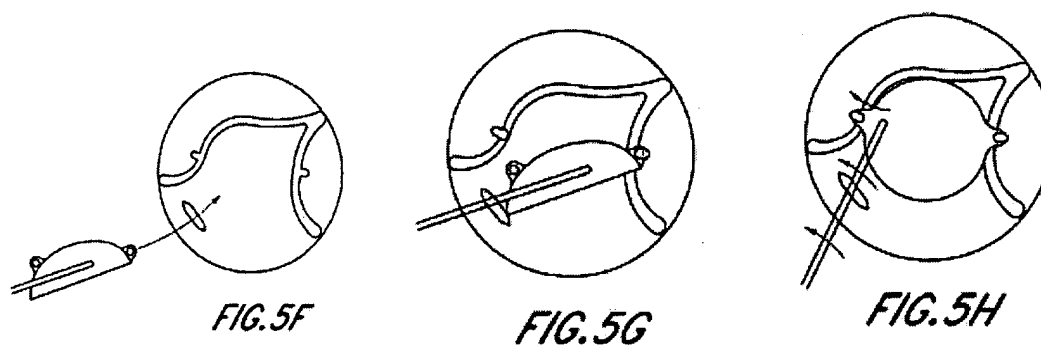


The claimed invention advantageously provides a way to insert the parts of an IOL through an incision as small as 1 mm by inserting each part separately. Further, the parts can be inserted without folding the haptic. The haptic is typically more rigid than the lens and can be manipulated through a small incision alone without bending, by sliding one side of the haptic in and turning the haptic to allow the other side to be manipulated in and positioned within the eye (see Figures 5A-5E reproduced below).





Then the optic can be rolled up and inserted through the incision. After insertion, the optic can then be firmly attached to the haptic by first attaching one side of the cleat/eyelet attachment (Fig. 5G below), then unfolding the optic and attaching the other side (Fig. 5H).



The insertion of a two piece IOL into the very small confines of an eye is usually extremely difficult. The IOL as claimed allows this to be done relatively easily with no damage to the eye. The cleat and eyelet allow for easy attachment within the eye and then provide a

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

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**Customer No.: 20,995**

secure, but movable attachment which will not be broken during the normal movements of the eye, but will conform to the normal movements of the eye.

In addition, the cleat and eyelet attachment is advantageously configured to be interchangeable. The cleat may be on the haptic in some cases and on the eyelet in others. In one particularly advantageous embodiment, the haptic is more rigid than the optic. This allows the optic eyelet to be slightly stretched to more easily attach to the haptic within the eye. In the alternative embodiment, this allows the cleat to be inserted into the eyelet more easily by compressing the optic, allowing for an easier attachment within the eye.

The cleat is configured to extend generally in the plane of the part it is attached to, not to be perpendicular to the plane. This arrangement allows the surgeon, who is looking through the cornea, to see both parts during the attachment, and also provides a stronger attachment within the eye, while still allowing for normal eye movements.

These features are reflected in the claims, which recite an attachment for a two-part IOL comprising two elements: an optic and a haptic, wherein the haptic is more rigid than the optic; at least two cleats on one element; and at least two eyelets on the other element allowing each of said cleats to firmly attach to one of the eyelets, wherein said two-part IOL is configured to pass completely through a small incision without folding the haptic.

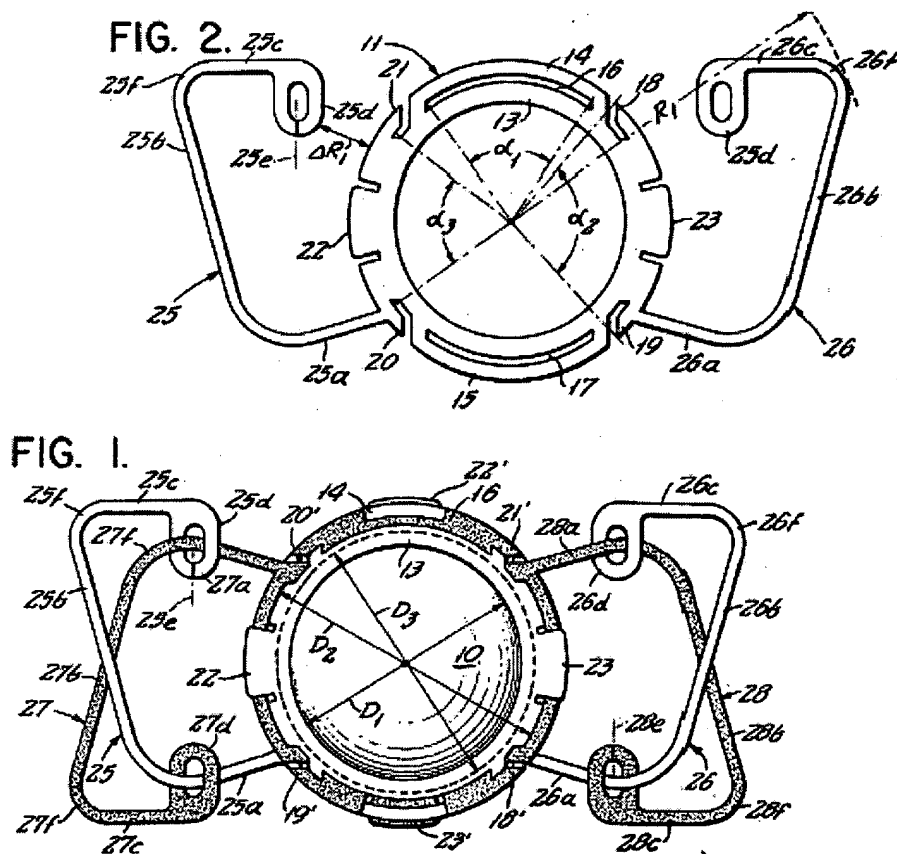
## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The issues before the Board in this appeal are as follows:

- A. Whether Claims 40, 51-53, 56, 67-69, 74, 75, and 79 are anticipated under 35 U.S.C. §102(b) by Poler (US 4,434,515)
- B. Whether Claims 40, 51-53, 56, 67-69, 74, 75, and 79 are unpatentable under 35 U.S.C. §103(a) over Poler (US 4,434,515)
- C. Whether Claims 40, 51-53, 56, 67-69, 74, 75, and 77-79 are anticipated under 35 U.S.C. §102(b) by Lecoq (FR 2 770 394)
- D. Whether Claims 40, 51-53, 56-61, 67-69, 74, 75, and 77-79 are unpatentable under 35 U.S.C. §103(a) over Lecoq (FR 2 770 394).

**Poler (US 4,434,515) does not anticipate Independent Claims 40 and 79**

In the Office Action mailed February 22, 2005, the Examiner rejected Claims 40, 51-53, 56, 67-69, 74, 75, and 79 as anticipated under 35 U.S.C. § 102(b) by Poler (US 4,434,515), referred to herein as Poler '515. The Examiner has asserted that Poler '515 teaches a two-part IOL with cleats (hooks 18-21) on the haptic (Figure 2, element 11) extending generally in the plane of the haptic and at least two eyelets (apertures 16 and 17) on the optic (10 + 12). The Examiner suggests that there is a further interpretation in which the distal ends of legs 27, 28 are the eyelets on the optic (10 + 12) and legs 25, 26 are the cleats on the haptic (11).



Independent Claims 40 and 79 in the instant application teach an attachment for an IOL, having an optic with at least two eyelets and a haptic with at least two cleats.

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

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**Customer No.: 20,995**

Regarding the Examiner's assertions, Applicants respectfully contend that the Examiner is misinterpreting this reference. The Examiner mistakenly believes that the optic and one of the haptic pieces are permanently attached (see his reference to eyelets (16 and 17) on the optic (10 + 12)). In fact, the optic 10 of Poler is simply a **disc with no attachments** which is sandwiched between two haptics (11 and 12). For example, this is supported by the language in column 2, lines 40 which reads "Thus, with the parts 11-12 assembled to each other and to lens element 10 in FIG. 1, ...the body portion 13 of part 11 circumferentially continuously laps the posterior side of the peripheral region of the lens element, and the body portion 13' of anterior part 12 similarly laps the corresponding anterior region of the lens element." The lens element 10 is clearly a separate part and is held in place by being sandwiched between haptic 11 (shown as unshaded in Figure 2 above) and haptic 12 (the shaded haptic in Figure 1 above). Thus, the attachments on each haptic in Poler '515 serve to attach the haptic 11 to haptic 12, not to attach the optic to the haptic.

It is well-established that in order for a reference to be anticipatory under 35 U.S.C. § 102, it must teach each and every element of the claimed invention. See *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed. Cir. 1986). "Invalidity for anticipation requires that all of the elements and limitations of the claim are found within a single prior art reference. ...There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991).

The IOL of Poler '515 does not anticipate the claimed invention because the optic does not even have an attachment element, much less an eyelet or a cleat. Therefore, Poler '515 does not teach each and every element of the claimed invention, because Poler '515 does not teach an optic with at least two eyelets.

**Poler (US 4,434,515) does not render Independent Claims 40 and 79 obvious**

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

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Customer No.: 20,995

In the Office Action mailed February 22, 2005, the Examiner rejected Claims 40, 51-53, 56, 67-69, 74, 75, and 79 as unpatentable under 35 U.S.C. §103(a) over Poler (US 4,434,515), Poler '515. The Examiner has asserted that in Figure 1-6, Poler teaches a two-part IOL with cleats (hooks 18-21) on the haptic (Figure 2, element 11) extending generally in the plane of the haptic and at least two eyelets (apertures 16 and 17) on the optic (10 + 12). The Examiner suggests that there is a further interpretation in which the distal ends of legs 27, 28 are the eyelets on the optic (10 + 12) and legs 25, 26 are the cleats on the haptic (11).

Independent Claims 40 and 79 teach an attachment for an IOL, having an optic with at least two eyelets and a haptic with at least two cleats.

The law is clear that three basic criteria must be met to establish a *prima facie* case of obviousness (MPEP ¶2143): First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references, when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1440 (Fed. Cir. 1991)).

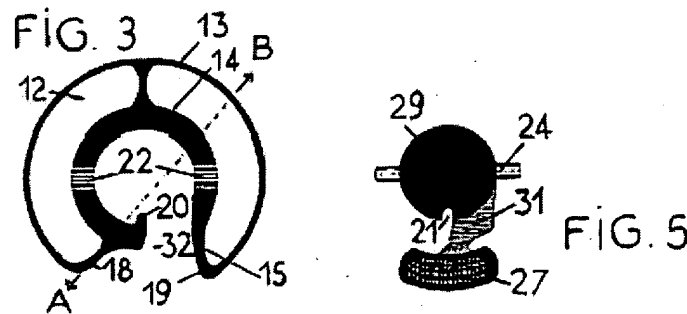
As stated above with regard to the anticipation rejection, Poler does not teach or suggest an attachment on the optic, much less an eyelet. Thus, Poler does not teach or suggest all the claim limitations.

Further there is no suggestion in Poler to include an attachment for the optic. The optic is a glass lens element (see column 1, line 45), a **disc with no attachments**, which is sandwiched between two haptic elements (11 and 12). This is supported by the language in column 2, lines 40 which reads, "Thus, with the parts 11-12 assembled to each other and to lens element 10 in FIG. 1, ...the body portion 13 of part 11 circumferentially continuously laps the posterior side of the peripheral region of the lens element, and the body portion 13' of anterior part 12 similarly laps the corresponding anterior region of the lens element." The overlapping of the lens element

with the two haptic elements serves to hold the lens in place within the eye. There is no suggestion of an attachment element on the lens element, how such an attachment would be configured or whether an attachment would be advantageous. Thus, there is no suggestion to modify the lens element of Poler to include an attachment.

**Lecoq (FR 2,779,394) does not anticipate Independent Claims 40, 77, 78, and 79**

In the Office Action mailed February 22, 2005, the Examiner rejected Claims 40, 51-53, 56, 67-69, 74, 75, and 77-79 as anticipated under 35 U.S.C. §102(b) by Lecoq (FR 2,779,394). The Examiner has asserted Lecoq because he believes that Lecoq teaches an attachment for a two-part IOL in Figures 3 and 5-13 with two cleats (anchoring tabs 24) on the optic extending generally in the plane of the optic and two eyelets (radial grooves 22) on the haptic. The Examiner states that although the grooves are not eyelets, it would have been an obvious matter of design choice to attach the cleats to slots (as evidenced by our specification page 13, lines 20-21) which says "Fig. 8B is an alternative which has the cleats 300 on the lens 200 and the slots, eyelets, apertures or notches 400 on the haptic 110."



Claims 40, and 77-79 (and their dependencies) of the present invention all teach an attachment for an IOL, having an optic and haptic (2 parts) wherein one part has at least two eyelets and the other part has at least two cleats, allowing each of the cleats to firmly attach to one of the eyelets. Claims 40 and 79 teach that the cleats are on the haptic and the eyelets are on the optic. Claims 77 and 78 teach that the cleats are on the optic and the eyelets are on the haptic.

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

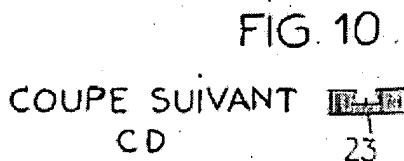
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Customer No.: 20,995

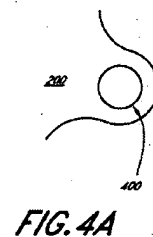
Although Lecoq does teach an attachment, the attachment does not include an eyelet. Enclosed in the Evidence Appendix is a copy of a partial translation of the French Lecoq patent, including the passages related to the attachment. This translation was filed with the Appeal Brief on May 26, 2005. As can be seen with reference to the Figures from Lecoq and the translation of Lecoq, with reference to Figure 3 above and Figure 11, the anchoring tabs (24 and 30) are trapezoidal projections on the optic. These are clearly not cleats. In addition, the radial grooves 22 (also shown as 23 on Figure 10) are trapezoidal grooves in the haptic. These are clearly not eyelets. The trapezoidal projections are attached to the trapezoidal grooves by pushing the projections into the grooves (see the arrow superimposed on Figure 12 below in which the trapezoidal projection is darkened and the arrow shows the direction of pushing. The arrow has been added herein for clarity).



Applicant respectfully disagrees with the Examiner's interpretation of the term "eyelet."



Lecoq RADIAL GROOVE



Blake EYELET

Upon a review of the Examiner's comments, Applicant suggests that the definition of an eyelet when consulting three well-accepted dictionaries is: "a small hole or perforation..." (see the definitions included in the Evidence Appendix, which definitions were filed with the

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

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Customer No.: 20,995

Amendment on January 18, 2005). The Examiner states that Lecoq teaches an eyelet on the optic. However, the Examiner then states that the eyelet is shown as radial grooves in reference number 22 in Figure 3 (also shown as reference number 23 in Figure 10 above). It is clear that the radial groove numbered 22 and 23 is an indentation or channel in the haptic which in no way perforates or goes through the haptic. The Blake eyelet is shown above for comparison. Thus, Lecoq does not teach an "eyelet" in the accepted definition of the term because a channel is not an eyelet.

The law is clear with respect to the interpretation of a word. As evidenced by *In re Morris et al.* "the claims are given the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art (see below)."

*In re Morris et al.*, 43 U.S.P.Q.2d 1753 (Fed. Cir. 1997). "Integral" is broad, = "fixedly attached." *Markman* does not require having same construction for PTO as for courts. Broad during prosecution, narrow during enforcement. *In re Donaldson* = narrow only for § 112, ¶ 6. "[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art...").

The component in Lecoq which the Examiner identifies as an "eyelet" cannot be so interpreted as the "broadest reasonable meaning of the words in their ordinary usage". Thus, Lecoq does not anticipate the invention because it does not provide eyelets and Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. §102(b).

**Lecoq (FR 2,779,394) does not render Independent Claims 40, 77, 78, and 79 obvious**

In the Office Action mailed February 22, 2005, the Examiner rejected Claims 40, 51-53, 56, 67-69, 74, 75, and 77-79 as unpatentable under 35 U.S.C. §103(a) over Lecoq (FR 2,779,394).

The three basic criteria for a *prima facie* case of obviousness are enumerated above in the rejection over Poler. None of these criteria are met by Lecoq.

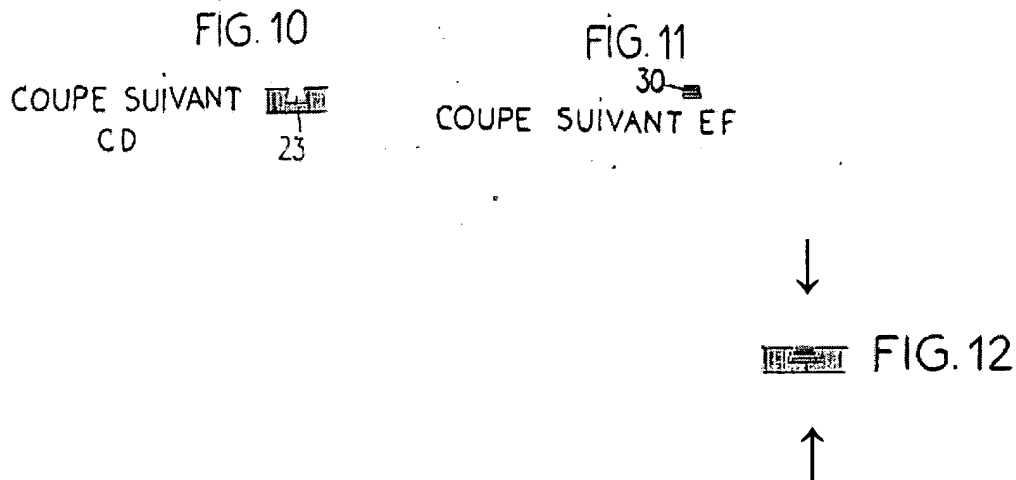
Claims 40, and 77-79 (and their dependencies) of the present invention all teach an attachment for an IOL, having an optic and haptic (2 parts) wherein one part has at least two



eyelets and the other part has at least two cleats, allowing each of the cleats to firmly attach to one of the eyelets. Claims 40 and 79 teach that the cleats are on the haptic and the eyelets are on the optic. Claims 77 and 78 teach that the cleats are on the optic and the eyelets are on the haptic.

As stated above in the anticipation rejection, Lecoq does not teach or suggest an eyelet, but only a channel. Thus, Lecoq does not teach or suggest all the claim limitations.

Further there is no suggestion in Lecoq to change the channel into an eyelet. The attachment of Lecoq does not perform in the way that a cleat and eyelet would. With reference again to Figures 10-12 of Lecoq, the radial groove (22, 23) and the anchoring tab (24, also shown as 30 in Figure 11) would require a pinching motion to attach one to the other (see Figure 12 below). For example, the anchoring tab 30 in Figure 11 below must be pushed down while the radial groove 23 in Figure 11 is pushed up to produce the attached form as shown in Figure 12.



The pinching motion required and shown with the added arrows to Figure 12 above, to attach the anchoring tab (30 in Figure 11) to the channel (23 in Figure 10) is completely different from the motion necessary to attach the cleat to the eyelet in the IOL of Blake et al. As a result, while the optic can be attached to the eyelet of Blake et al within the eye with very little risk of

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

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**Customer No.: 20,995**

damage to the eye, the motion required for attachment of the anchoring tab to the channel of Lecoq is a very risky motion within the confines of the eye.

Finally, the attachment shown in the present invention advantageously allows for the natural movements of the eye. When the cleat is attached to the eyelet, there is enough room for the optic to move slightly on the haptic with the movements of the eye. As can be clearly seen with reference to Figure 12 of Lecoq, there is no possibility for movement of the optic once it is attached to the haptic. The radial groove and anchoring tab form a rigid attachment which allows for no "play."

In conclusion, Lecoq does not render the claimed invention obvious for the following reasons: 1) Lecoq does not teach all of the claimed elements because Lecoq does not teach an eyelet; 2) There would be no suggestion in Lecoq to change the channel 23 into an eyelet, because the attachment of Lecoq does not perform in the same way and, in fact, renders attachment of the optic to the haptic within the eye risky; and 3) In contrast to the attachment of Lecoq, the attachment of the present invention offers the advantages of attachment with little risk of damage to the eye within the eye and allows for the natural movement of the eye even after attachment. Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103(a).

### **VIII. CLAIMS APPENDIX**

Below is a copy of the twice rejected claims that are the subject of this appeal.

1-39. (Cancelled)

40. (Previously presented) An attachment for a two-part IOL comprising:

an optic;

a haptic, wherein the haptic is more rigid than the optic;

at least two cleats on the haptic; and

at least two eyelets on the optic allowing each of said cleats to firmly attach to one of said eyelets on the optic,

wherein said two-part IOL is configured to pass completely through a small incision without folding the haptic, and wherein said cleats on the haptic extend generally

in the direction of the plane of the haptic, wherein the plane of the haptic is generally perpendicular to the optical axis when the optic is attached to the haptic.

41-50. (Canceled)

51. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said haptic further comprises at least one more cleat.

52. (Previously presented) The attachment for a two-part IOL of Claim 51, wherein said at least two cleats are asymmetrical.

53. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said haptic further comprises a hinge.

54. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said haptic comprises:

a first rigid element;

a second rigid element formed of a relatively higher modulus material than the first rigid element, wherein said first and second rigid elements are separated from one another at a discontinuity; and

a relatively less rigid element formed of relatively lower modulus material bridging said discontinuity.

55. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said bridging allows for the second rigid element to be rotated into the anterior chamber.

56. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said haptic is composed of a higher modulus material selected from the group consisting of: polyphenylsulfone (PPSU), polyimide, polyetheretherketone, polycarbonate, polymethylpentene, polymethylmethacrylate, polypropylene, polyvinylidene fluoride, polysulfone, and polyether sulfone.

57. (Previously presented) The attachment for a two-part IOL of Claim 56, wherein said polyimide is KAPTON.

58. (Previously presented) The attachment for a two-part IOL of Claim 56, wherein said higher modulus material is polyphenylsulfone (PPSU).

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

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**Customer No.: 20,995**

59. (Previously presented) The attachment for a two-part IOL of Claim 56, wherein said higher modulus material has a modulus of about 100,000 to about 500,000 psi/inch.

60. (Previously presented) The attachment for a two-part IOL of Claim 59, wherein said higher modulus material has a modulus of about 340,000 psi/inch.

61. (Previously presented) The attachment for a two-part IOL of Claim 56, wherein said higher modulus material is less than or equal to about 0.01 inches thick.

62. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material is an elastomer selected from the group consisting of: silicones, urethane, or hydrophilic acrylics.

63. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material has a modulus of about 100 to about 1000 psi/inch.

64. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material has a hardness of about 15 to 70 on the shore A scale.

65. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said higher modulus material has a hardness of 60 to 95 shore D.

66. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material is selected from the group consisting of: NUSIL MED 6600, 6604, 6607, 6400, and 6820.

67. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said optic is selected from the group consisting of a refractive lens, an interference lens, a toric lens, a multifocal lens, a positive lens, and a negative lens.

68. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein a lower modulus material partially or completely covers said haptic.

69. (Previously presented) The attachment for a two-part IOL of Claim 53, wherein said hinge comprises a toe region, a foot region, and a lower modulus material extended toward the foot region.

70. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material is applied by surface treatment and molding.

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

---

**Customer No.: 20,995**

71. (Previously presented) The attachment for a two-part IOL of Claim 70, wherein said surface treatment is a corona or plasma treatment.

72. (Previously presented) The attachment for a two-part IOL of Claim 70, wherein said molding is selected from the group consisting of dip molding, cast molding, and injection molding.

73. (Canceled)

74. (Previously presented) The attachment of Claim 40, wherein said two-part IOL is configured to pass completely through a 2.5mm or less opening without folding the haptic.

75. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein the haptic is generally "L" shaped.

76. (Canceled)

77. (Previously presented) An attachment for a two-part IOL comprising:

an optic;

a haptic, wherein the haptic is more rigid than the optic;

at least two cleats on the optic; and

at least two eyelets on the haptic allowing each of said cleats to firmly attach to one of said eyelets on the haptic,

wherein said two-part IOL is configured to pass completely through a small opening without folding the haptic, and wherein said cleats on the optic extend generally in the direction of the plane of the optic, wherein the plane of the optic is generally perpendicular to the optical axis.

78. (Previously presented) An attachment for an IOL comprising:

an optic;

a haptic;

at least two cleats on the optic; and

at least two eyelets on the haptic allowing each of said cleats to firmly attach to one of said eyelets on the haptic,

wherein said optic and said haptic are each configured to pass separately, completely through a small incision without folding the haptic, and wherein said cleats on the optic extend generally in the direction of the plane of the optic, wherein the plane of the optic is generally perpendicular to the optical axis.

79. (Previously presented) An attachment for an IOL comprising:

an optic;

a haptic;

at least two cleats on the haptic; and

at least two eyelets on the optic allowing each of said cleats to firmly attach to one of said eyelets on the optic,

wherein said optic and said haptic are each configured to pass separately, completely through a small incision without folding the haptic, and wherein said cleats on the haptic extend generally in the direction of the plane of the haptic, wherein the plane of the haptic is generally perpendicular to the optical axis when the optic is attached to the haptic.

80. (Previously presented) The attachment of Claim 40, wherein the eyelets are attached firmly, but moveably to allow for natural movement of the eye.

81. (Previously presented) The attachment of Claim 40, wherein when the eyelets are attached to the cleats, part of the eyelet passes beneath the plane of the optic.

## **IX. EVIDENCE APPENDIX**

Below is a copy of a variety of definitions for the terms eyelet and cleats which was submitted in the Amendment mailed January 18, 2005. Also following is a partial translation of Lacoq, which was submitted in the Appeal Brief mailed May 26, 2005.

### **Definition of eyelet in its “ordinary meaning”.**

**eyelet**

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

---

Customer No.: 20,995

- a. A small hole or perforation, usually rimmed with metal, cord, fabric, or leather, used for fastening with a cord or hook.
- b. A metal ring designed to reinforce such a hole; a grommet.
- c. A small hole edged with embroidered stitches as part of a design.
- d. A peephole.
- e. A small eye.

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**eyelet**

\Eye"let\", n. [F. [oe]illet, dim. of [oe]il eye, fr. L. oculus. See Eye, and cf. Oillet.] 1. A small hole or perforation to receive a cord or fastener, as in garments, sails, etc. 2. A metal ring or grommet, or short metallic tube, the ends of which can be bent outward and over to fasten it in place; -- used to line an eyelet hole. Eyelet hole, a hole made for an eyelet.

*Webster's Revised Unabridged Dictionary, © 1996, 1998 MICRA, Inc.*

**eyelet**

n 1: a small hole (usually round and finished around the edges) in cloth or leather for the passage of a cord 2: fastener consisting of a metal ring for lining a small hole to permit the attachment of cords or lines [syn: cringle, loop, grommet, grummet]

*WordNet ® 2.0, © 2003 Princeton University*

**Definition of cleat in its "ordinary meaning".**

**cleat**

- a. A strip of wood or iron used to strengthen or support the surface to which it is attached.
- b. A projecting piece of metal or hard rubber attached to the underside of a shoe to provide traction.

**cleats**

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

---

Customer No.: 20,995


- a. A pair of shoes with such projections on the soles.
- b. A piece of metal or wood having projecting arms or ends on which a rope can be wound or secured.
- c. A wedge-shaped piece of material, such as wood, that is fastened onto something, such as a spar, to act as a support or prevent slippage.
- d. A spurlike device used in gripping a tree or pole in climbing.

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**cleats**

- a. [n] a strip of wood or metal used to strengthen the surface to which it is attached
- b. [n] a fastener (usually with two projecting horns) around which a rope can be secured
- c. [n] a metal or leather projection (as from the sole of a shoe); prevents slipping
- d. [v] secure on a cleat; "cleat a line"
- e. [v] provide with cleats, as of running shoes

*WordNet Dictionary*

Main Entry: **cleat**  Pronunciation: 'kleɪt Function: *noun* Etymology: Middle English *clete* wedge, from (assumed) Old English *clEat*; akin to Middle High German *kloz* lump -- more at CLOUT **1 a** : a wedge-shaped piece fastened to or projecting from something and serving as a support or check **b** : a wooden or metal fitting usually with two projecting horns around which a rope may be made fast **2 a** : a strip fastened across



Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

---

Customer No.: 20,995

something to give strength or hold in position **b** (1) : a projecting piece (as on the bottom of a shoe) that furnishes a grip (2) *plural* : shoes equipped with cleats

*Merriam-Webster Online dictionary*

Translation of relevant sections of FR 2 770 394 (Lecoq).

P5 lines 29-33

*Sur l'anse interne, en deux zones de preference diametralement opposees, se trouvent deux gorges radiaires (22) a bords non pas perpendiculaires mais legerement obliques, de telle sorte que l'espace delimite entre eux a une forme trapezoidale (23). Dans cet espace trapezoidal sera introduite une patte de fixation (24) de l'element porte qui sera ainsi bloque contre l'anneau porteur (12).*

On the internal carrier, in two zones of preference diametrically opposed, we can find two radial openings (22) which have non perpendicular edges but are slightly oblique, in such a manner that the space between them has a form of a trapeze (23). In this trapeze-like space it will be introduced a fixing/connecting edge (24) of the carried element which will be thus locked against carrying ring (12).

P6 lines 1-4

*Cette partie centrale, de preference circulaire, comporte deux petites pattes de fixation (24) aplaties diametralement opposees, d'une largeur suffisante pour assurer une fixation stable sans risque de bascule anterieure ou posterieure.*

This central part, of circular preference, carries two small fixing/connecting edges (24) flattened and diametrically opposed, of a sufficient width to assure a stable fixing/connection without risk of anterior or posterior tipping/sliding.

P7 lines 6-12

*L'extremite de ce crochet vient donc s'engager dans la petite encoche (26) ou l'orifice (25) prevus pres de la gorge (22) trapezoidale dans l'anse interne et exerce une force compensant exactement celle correspondant a l'engagement de la patte de fixation dans le petit trapeze. Une fois en place cette patte de fixation, on se reporte sur la seconde, diametralement opposee. L'ensemble de la piece etant toujours tenu par la meme pince, l'autre patte de fixation (24) est doucement pousee dans la'autre trapeze de l'anse interne, et une contre-pression est exercee par le meme crochet que precedemment, afin de stabilizer l'ensemble et le permettre l'introduction de cette second patte de fixation.*

Docket No. : TEKIA.002A  
Application No. : 09/631,576  
Filing Date : August 4, 2000

---

**Customer No.: 20,995**

The extremity of this hook comes therefore to connect in the small notch (26) or hole (25) located near the opening (22) of trapeze shape in the internal carrier and exercises a force compensating exactly the one corresponding to the connection of the fixing edge in the small trapeze. Once this fixing edge is in place, one moves on to the second one, diametrically opposed. The structure of the piece being always held by the same pinch, the other fixing/connection edge (24) is gently placed in the other trapeze of the internal carrier, and a counter pressure is performed by the same hook as previously, in order to stabilize the structure and to allow the introduction of this second fixing edge.

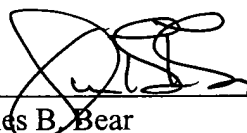
#### **X. RELATED PROCEEDINGS APPENDIX**

A related U.S. Patent Application owned by Assignee, Tekia, Inc. of this application, is identified as follows:

Application No. 11/177,776    Filed: 07/08/2005    Status: Pending (Published)

#### **CONCLUSION**

Applicants submit that the claims of this application are allowable and that the rejections should be overruled by the Board of Appeals.



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